IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE SIDE JURISIDICTION

CONTEMPT PETITION NO. 74 OF 2004
IN
CIVIL APPLICATION NO. 906 OF 1999
IN
FIRST APPEAL NO.116 OF 1999

Shri.Kuntilal Chunilal
Bothara & Ors. ..Petitioners

Vs.

Shri.Gulab Vithoba (Vithu)
Jadhav and Ors. ..Respondents

....

Mrs.Asha Bhambwani for Petitioners
Mr.R.D.Soni i/b Mr.Ram and Co. for Respondent nos.1 to 8
Mrs.G.P.Mulekar AGP for Respondent no.9

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CORAM : B.H.MARLAPALLE,J.

DATE : FEBRUARY 25,2005

P.C.:

1. Heard Ms.Asha Bhambwani, the learned counsel for the petitioners and Mr.R.D.Soni, the learned counsel for the respondent nos.1 to 8 and Mrs.Mulekar, learned A.G.P. for respondent no.9.

2. Agricultural land admeasuring 1 H. 66 Are. from Gat No. 620 of village Kuruli Tal. Khed, Dist. Pune is the suit property in First Appeal No. 116 of 1999 and was the suit property in Special Civil Suit No. 1812 of 1996. The same suit filed by the present petitioners came to be partly decreed on

30.11.1998. Being dissatisfied with the decree granted, the plaintiffs have filed first Appeal No.116 of 1999 and the same has been admitted. Civil Application No. 906 of 1999 filed in First Appeal No. 116 of 1999 was heard by this Court on 12.2.1999 and interim injunction in terms of prayer clause (a) was ordered. As per the said injunction, the defendants-owners were restrained from creating any third party interest.

3. In this contempt petition, it is alleged that inspite of the restraining order passed by this Court on 11.2.1999, the respondents proceeded to transfer the suit property to third parties. The notices of this Court were served on them and therefore, there is wilful disobedience of the order passed by this Court.

4. The respondents have appeared and filed affidavit in reply. The suit property is sold by the sale deed registered on 27.12.2002 is not disputed. It is further said that the same transaction was a bonafide transaction and followed by a public notice through Shri.Balasaheb Thopte advocate which was published in a Marathi daily by name "Prabhat" on 23.9.2002.

5. Mr.Soni has, therefore, raised first issue regarding the limitation of one year as set out under

Section 20 of the Contempt of Courts Act, 1971 and in addition has relied upon the decision in the case of *Anil Ratan Sarkar and others Vs. Hirak Ghosh and others reported in A.I.R. 2002 S.C. 1405* in support of his contentions that the respondents had acted in bonafide belief and had taken all precautions before the sale transaction was effected. He also submitted that most of the respondents are either illiterate or semi-literate and it cannot be safely accepted that the injunction order passed by this Court was served on them and thus they had the knowledge of the order passed by this Court.

6. On the point of limitation, it requires to be noted that by the petitioners own contentions, it had come to their knowledge on 13.9.2000, that the respondents had sought permission from the Sub-Divisional Officer Khed for the proposed sale. They had also filed lis pendense on 21.2.2002 under Section 52 of the Transfer of Property Act before the Registrar and published a public notice on 22.12.2000 in Marathi daily "Prabhat" published from Pune. This contempt petition has been presented before the Registrar on 21.1.2004. The petitioners also admitted that on 10.1.2003 it came to their knowledge that the Sub-Divisional Officer Khed by order dated 20-12-2002 had granted permission to the respondents for sale of the suit property in favour of Mr.Vinit

B.Goyal and Sham Sadhuram Agarwal.

7. Mr.Soni, the learned counsel for the respondents referred to the newspaper publication published in the very same marathi daily in which the present petitioners had published a public notice on 22.12.2002. It is pertinent to note that the public notice was released at the instance of the respondents by advocate Balasaheb Thopte on 23.3.2002. By the said notice, the intention of the respondents to sell the suit property was made public and after they were informed by their advocate vide his letter dated 29.7.2002 to the effect that no objection was received from any member of the public which lead them to proceed to finalise the transaction and the sale deed was registered as stated hereinabove. Thus, contempt petition is hit by limitation of one year as set out under Section 20 of the Contempt of Courts Act, 1971. On this ground alone, this contempt petition has to be rejected.

. The same is hereby rejected accordingly.

[B.H.MARLAPALLE,J.]